

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**IN RE:        UNIFIED MESSAGING  
                 SOLUTIONS LLC  
                 PATENT LITIGATION**

**MDL No. 2371**

**Master Docket No. 12 C 6286  
ALL CASES**

**JURY TRIAL DEMANDED**

**JOINT PRELIMINARY REPORT**

Pursuant to the Court's Order of September 10, 2012, Plaintiff Unified Messaging Solutions LLC ("Unified Messaging") and all Defendants submit the following preliminary report in anticipation of the October 12 Initial Pretrial Conference.

**I.        Attorneys Who Will Attend the Initial Pretrial Conference.**

In attendance on October 12 will be:

<b>Name</b>	<b>Party Represented</b>	<b>Primary City and State</b>
Edward R. Nelson, III	Unified Messaging	Fort Worth, TX
Timothy Grochocinski	Unified Messaging	Chicago, IL
Stephanie To	Unified Messaging	St. Louis, MO
Christopher Schenck	Google, Inc.	Seattle, WA
Benjamin F. Sidbury	Etsy, Inc.	Charlotte, NC
Steven J. Reynolds	Avid Life Media, Inc.; HomeAway, Inc.	Chicago, IL
James J. Lukas, Jr.	Cupid PLC; Northern Illinois Gas Company	Chicago, IL
Robert Barz	BNY Mellon, National Association; The Bank of New York Mellon; The Bank of New York Mellon Corp.; UBS Financial Services, Inc.	Chicago, IL
Galyn Gafford	HSBC Bank USA, National Association; HSBC North America Holdings Inc.; HSBC USA Inc.; Citibank, N.A.; Citigroup Inc.	Dallas, TX
Michael Gaertner	HSBC Bank USA, National Association;	Chicago, IL

	HSBC North America Holdings Inc.; HSBC USA Inc.; Citibank, N.A.; Citigroup Inc.	
Ury Fischer	Avalanche, LLC	Miami, FL
Thomas L. Duston	Groupon, Inc.; United Air Lines, Inc.	Chicago, IL
Matt Gryzlo	Ebay, Inc.; Twitter, Inc.; Yahoo! Inc.	Chicago, IL
Stuart Bartow	Ebay, Inc.; Twitter, Inc.; Yahoo! Inc.	San Jose, CA
Yar Chaikovsky	Ebay, Inc.; Twitter, Inc.; Yahoo! Inc.	San Jose, CA
Jason C. White	Discover Financial Services; Walgreen Co.	Chicago, IL
Scott D. Sherwin	Discover Financial Services; Walgreen Co.	Chicago, IL
Brooks Beard	Homestead Technologies Inc.; Intuit, Inc.; VMWare, Inc.	San Francisco, CA
Timothy J. Carroll	The Vanguard Group, Inc.; The Vanguard Marketing Corp.	Chicago, IL
Jay Heidrick	Sprint Nextel Corp. Plentyoffish Media, Inc.; WeeWorld Inc.; Where Are You Now Ltd.	Kansas City, KS
Max Ciccarelli	Southwest Airlines Co.	Dallas, TX
Kal K. Shah	Orbitz, LLC	Chicago, IL
James D. Shead	AT&T Mobility LLC; AT&T Services, Inc.; SBC Internet Services, Inc.	Austin, TX
Charles Molster	AOL Inc.; Verizon Data Services LLC	Washington, DC
Kurt Mathas	AOL Inc.; Verizon Data Services LLC	Chicago, IL
Lam Nguyen	Facebook, Inc.	Palo Alto, CA
Thomas Cushing	Morgan Stanley; Morgan Stanley & Co. LLC; Morgan Stanley Smith Barney LLC	Chicago, IL
David J. Silbert	Comcast Cable Communications, LLC	San Francisco, CA
Gordon B. Nash	Comcast Cable Communications, LLC	Chicago, IL

Eric Walters	Radio One, Inc.	San Francisco, CA
Eric H. Findlay Michael D. Findlay	Multiply, Inc.	Tyler, TX
Jordan A. Sigale	CMI Marketing, Inc.	Chicago, IL
Peter H. Hanna	Charter Communications, Inc.	Chicago, IL

Yar Chaikovsky, Benjamin Sidbury, and Max Ciccarelli expect to speak on behalf of all Defendants at the pretrial hearing. Other Defendants' counsel, however, may also speak if issues arise that are unique to their clients.

## **II. Preliminary Understanding of the Facts Involved in the Litigation and Critical Factual and Legal Issues.**

The parties submit the following statements regarding the issues in the litigation:

### **A. Joint Statement**

The cases centralized before this Court involve allegations of infringement, unenforceability, and invalidity of one or more of the following U.S. Patent Nos. 6,857,074 ("the '074 patent"), 7,836,141 ("the '141 patent"), 7,895,306 ("the '306 patent"), 7,895,313 ("the '313 patent"), and 7,934,148 ("the '148 patent") (collectively "the patents-in-suit").<sup>1</sup> The patents-in-suit share a common specification and generally relate to receiving and storing communications on a server and allowing users to access those communications through a browser or other application program.

### **B. Unified Messaging's Statement**

Aside from the number of Defendants in suit, this case is similar to most other patent infringement cases. The critical legal issues are questions of claim construction — how the asserted claims of the patents shall be construed in light of the relevant specification and prosecution history. The critical factual issues involve the nature of Defendants' accused

---

<sup>1</sup> UMS asserts all patents-in-suit against 42 defendants, all patents-in-suit with the exception of the '074 patent against HSBC, and only the '148 patent against the remaining defendants (approximately 11 defendants).

systems and products — whether the accused products or systems embody and/or practice the claimed systems and methods (as construed).

Unified Messaging believes that a claim construction order setting forth a clear construction of disputed terms and phrases, and good faith mediation conducted by the Court or an appointed third-party mediator, are most meaningful to the efficient and effective resolution of the various cases. To this end, Unified Messaging proposes an accelerated schedule with respect to the claim construction proceedings of the two earliest-filed cases, *Unified Messaging Solutions LLC v. Facebook, Inc., et al.*, and *Unified Messaging Solutions LLC v. Google Inc., et al.* Unified Messaging refers to these two cases as the “Phase 1 Cases” in its Proposed Case Management Order.

Additionally, Unified Messaging requests two mediation deadlines for the Phase 1 Cases — one requiring the parties to complete mediation within sixty (60) days following the Initial Pretrial Conference<sup>2</sup>, and a second requiring mediation within sixty (60) days following the issuance of a claim construction order. Similarly, Unified Messaging requests that the Court establish two sets of mediation deadlines for the parties in the Phase 2 Cases, the first to be held by August 28, 2013, and the second after any follow-on claim construction proceedings (and resultant order).

### **C. Defendants’ Statement**

The predominant legal issues in this case are the construction of the disputed terms and phrases in the patents-in-suit, the validity of the patents-in-suit, and the non-infringement of each accused instrumentality. The predominant factual issues in this case are the operation of each

---

<sup>2</sup> The Phase 1 Cases were within weeks of Court-ordered mediation deadlines when the Judicial Panel for Multidistrict Litigation issued its Transfer Orders.

accused instrumentality, the conception and reduction to practice of the alleged inventions by the named inventors, and the state of the prior art.

Defendants agree with Unified Messaging that a claim construction order setting forth a clear construction of disputed terms and phrases is the first legal issue that should be addressed in this case. Not only will this Court's construction of the disputed terms and phrases inform the scope of fact and expert discovery, but it may also lead to early motions for summary judgment of non-infringement and/or invalidity and the possibility of early resolution of some cases through mediation and/or settlement.

Unlike Unified Messaging, Defendants believe that "phasing" the litigation—undertaking multiple phases of claim construction and discovery for different sets of defendants, with multiple *Markman* hearings—would frustrate the purpose of the MDL and cause duplicative work for both the parties and the Court. A multi-phased approach would also create a risk that Defendants in later phases would effectively be precluded from being fully heard on issues that are litigated by Defendants in earlier phases. Notably, when Unified Messaging specifically argued before the Judicial Panel on Multidistrict Litigation that the *Facebook* and *Google* actions should be excluded from this MDL and proceed into claim construction ahead of the other actions, the panel rejected that argument. *See* Dkt. No. 1, at 3 ("While we recognize that transfer of the *Facebook* and *Google* actions could result in some delay to these two cases, we balance that against the overall efficiencies gained.") Defendants respectfully suggest that the Court decline Unified Messaging's request to revisit that issue here. In the interest of maximizing efficiency and fairness, Defendants propose that all parties currently included in these centralized litigations, plus any new parties to be added by Unified Messaging within the next month, proceed to claim construction on a unified schedule in Spring 2013.

Defendants' proposed schedule will quickly and efficiently prepare this case for a *Markman* hearing by May 2013. To accomplish this goal, Defendants propose that the parties exchange limited initial disclosures, Unified Messaging provide its infringement contentions, and Defendants then provide their invalidity contentions.<sup>3</sup> With this information exchanged, Defendants propose that all parties should be in position to begin the claim construction process on January 25, 2013. After exchange of terms and briefing by the parties, this case will be ready for a *Markman* hearing at any date of the Court's choosing after May 10, 2013.

After this Court's ruling on the disputed terms and phrases, Defendants propose to meet-and-confer with Unified Messaging regarding the preparation of an efficient schedule for fact discovery, expert discovery, mediations, and dispositive motions. Based on these discussions, the parties would then submit a joint schedule or competing schedules for this Court's consideration and discussion with the parties at a case management conference at a date and time of the Court's convenience.

### **III. Proposed Case Management Order.**

The parties have been unable to reach agreement on a proposed Case Management Order. Unified Messaging's proposed Case Management Order is attached as Exhibit A. Defendants' proposed Case Management Order is attached as Exhibit B.

### **IV. Agreed Order For the Preservation of Documents.**

The parties present their proposed agreed order for the preservation of documents as Exhibit C.

### **V. Additional Items Required of Plaintiff.**

---

<sup>3</sup> It is Defendants' view that no additional fact discovery is necessary before proceeding with the *Markman* hearing. Defendants propose staying additional discovery until following claim construction to permit the parties to focus early on this potentially case dispositive phase of the litigation.

**A. Listing of Present Motions**

There are ten motions pending among the centralized cases, including two letter briefs seeking permission to file motions for summary judgment and five motions related to severance and/or transfer. Identification of each motion, including the relevant case caption, Northern District of Illinois case number, and ECF Document Numbers are included as Exhibit D for the Court's convenience.

**B. Listing of Pending Related and Tag-Along Cases**

There are currently thirty-six Related Cases pending. Each case and its present status are set forth in Exhibit E. Plaintiff expects to file approximately thirty additional lawsuits in December 2012 or January 2013, with additional sets of approximately thirty lawsuits filed at six month intervals thereafter.

**C. Hard Copies of Each Patent-in-Suit**

Pursuant to Section 3(e)(iii) of the Court's Order Regarding Initial Pretrial Conference, Dkt. No. 15, Plaintiff has delivered two hard copies of each patent-in-suit, each set submitted in a tabbed, three-ring binder with identification of the cases in which that patent is at issue.

**Dated: September 28, 2012**

*Signatures of Counsel Below*

Respectfully submitted,

/s/ Edward R. Nelson, III  
Edward R. Nelson, III  
Texas State Bar No. 00797142  
Lead Counsel  
Brent N. Bumgardner  
Texas State Bar No. 00795272  
Christie B. Lindsey  
Texas State Bar No. 24041918  
Thomas C. Cecil  
Texas State Bar No. 24069489  
Jonathan H. Rastegar  
Texas State Bar No. 24064043  
NELSON BUMGARDNER CASTO, P.C.  
3131 West 7<sup>th</sup> Street, Suite 300  
Fort Worth, Texas 76107  
(817) 377-9111  
enelson@nbclaw.net  
bbumgarnder@nbclaw.net  
clindsey@nbclaw.net  
tcecil@nbclaw.net  
jrastrergar@nbclaw.net

Timothy E. Grochocinski  
Illinois State Bar No. 6295055  
INNOVALAW, P.C.  
1900 Ravina Place  
Orland Park, IL 60462  
(708) 675-1974  
teg@innovalaw.com

Anthony G. Simon  
Illinois State Bar No. 6209056  
Michael P. Kella  
Illinois State Bar No. 6307908  
Benjamin R. Askew  
Illinois State Bar No. 223950  
THE SIMON LAW FIRM, P.C.  
800 Market Street, Suite 1700  
St. Louis, MO 63101  
(314) 241-2929  
asimon@simonlawpc.com  
mkella@simonlawpc.com  
baskew@simonlawpc.com



Andrew G. DiNovo  
Texas State Bar No. 0079059  
Jay D. Ellwanger  
Texas State Bar No. 24036522  
DINOVO PRICE ELLWANGER & HARDY, LLP  
700 N. Mopac Expy, Suite 350  
Austin, Texas 78731  
(512) 539-2631  
adinovo@dpelaw.com  
jellwanger@dpelaw.com

**ATTORNEYS FOR PLAINTIFF  
UNIFIED MESSAGING SOLUTIONS  
LLC**

Dated: September 28, 2012

Respectfully submitted,

By: /s/ Yar R. Chaikovsky  
Jeffrey Stone (SBN 6189590)  
Matthew Gryzlo (SBN 6243042)  
Amol Parikh (SBN 6285077)  
MCDERMOTT WILL & EMERY LLP  
227 West Monroe Street  
Chicago, Illinois 60606  
Tel: 312.372.2000  
Fax: 312.984.7700  
jstone@mwe.com  
mgryzlo@mwe.com  
amparikh@mwe.com

Yar R. Chaikovsky  
D. Stuart Bartow  
Bryan James  
MCDERMOTT WILL & EMERY LLP  
275 Middlefield Rd., Suite 100  
Menlo Park, CA 94025  
Tel: 650.8145.7400  
Fax: 650.815.7401  
ychaikovsky@mwe.com  
sbartow@mwe.com  
bjames@mwe.com

*Attorneys for Defendants eBay Inc., Twitter  
Inc., and Yahoo! Inc.*

By: /s/ Kevin A. Keeling  
Floyd R. Nation  
Kevin A. Keeling  
WINSTON & STRAWN LLP  
1111 Louisiana, 25th Floor  
Houston, Texas 77002  
Tel: 713.651.2600  
Fax: 713. 651.2700  
fnation@winston.com  
kkeeling@winston.com

Vivian S. Kuo  
Corrine M. Saylor  
WINSTON & STRAWN LLP  
1700 K Street, N.W.  
Washington, D.C. 20006  
Tel: 202.282.5000  
Fax: 202.282.5100  
vkuo@winston.com  
csaylor@winston.com

Deron R. Dacus  
THE DACUS FIRM, P.C.  
821 ESE Loop 323, Suite 430  
Tyler, TX 75701  
Tel: 903.705.1117  
Fax: 903.705.1117  
ddacus@dacusfirm.com

*Attorneys for Defendant AOL Inc.*

By: /s/ James D. Shead  
Willem G. Schuurman (Texas State Bar No.  
17855200)  
Syed K. Fareed (Texas State Bar No.  
24065216)  
James D. Shead (Texas State Bar No.  
24070609)  
Patrick Doll (Texas State Bar No. 24078432)  
VINSON & ELKINS LLP  
2801 Via Fortuna, Suite 100  
Austin, TX 78746  
Tel: (512) 542-8400  
Fax: (512) 542-8612  
bschuurman@velaw.com

sfareed@velaw.com  
jshead@velaw.com  
pdoll@velaw.com  
ATT-UMS-grpplist@velaw.com

Scott W. Breedlove (Texas State Bar No.  
0079036)  
VINSON & ELKINS LLP  
2001 Ross Avenue, Suite 3700  
Dallas, TX 75201  
Tel: (214) 220-7700  
Fax: (214) 220-7716  
sbreedlove@velaw.com

*Attorneys for Defendants AT&T Services,  
Inc.; SBC Internet Services Inc. d/b/a AT&T  
Internet Services; and AT&T Mobility LLC  
f/k/a Cingular Wireless LLC*

By: /s/ Ury Fischer  
Ury Fischer  
Florida Bar No. 048534  
LOTT & FISCHER, PL  
355 Alhambra Circle, Suite 1100  
Coral Gables, FL 33134  
Tel: 305.448.7089  
Fax: 305.446.6191  
UFischer@lottfischer.com

*Attorneys for Defendant Avalanche, LLC*

By: /s/ Steven J. Reynolds  
Steven J. Reynolds  
DLA Piper LLP (US)  
203 N. LaSalle Street, Suite 1900  
Chicago, IL 60601-1293  
Tel: 312.368-4000  
Fax: 312.368.7323  
steven.reynolds@dlapiper.com

Richard de Bodo  
Patrick Park  
DLA Piper LLP (US)  
2000 Avenue of the Stars, Suite 400  
North Tower  
Los Angeles, CA 90067-6023

Tel: 310.595.3000  
Fax: 310.595.3300  
richard.debodo@dlapiper.com  
patrick.park@dlapiper.com

*Attorneys for Defendant Avid Life Media, Inc.*

By: /s/Alan L. Barry  
Alan L. Barry  
Jason A. Engel  
K&L GATES LLP  
70 West Madison Street, Suite 3100  
Chicago, Illinois 60602  
Tel: 312.372.1121  
Fax: 312.827.8000  
alan.barry@klgates.com  
jason.engel@klgates.com

William P. Atkins  
Christopher K. Dorsey  
PILLSBURY WINTHROP SHAW PITTMAN  
LLP  
1650 Tysons Boulevard, Suite 1400  
McLean, VA 22102  
Tel: 703.770.7900  
Fax: 703.770.7901  
william.atkins@pillsburylaw.com  
christoper.dorsey@pillsburylaw.com

*Attorneys for Defendants The Bank of New  
York Mellon Corporation and The Bank of  
New York Mellon (F/K/A The Bank of New  
York)*

By: /s/ Jakob Ben-Ezra  
Rick L. Rambo, Lead Attorney  
Thomas R. Davis  
Jakob Ben-Ezra  
MORGAN, LEWIS & BOCKIUS LLP  
1000 Louisiana Street, Suite 4000  
Houston, Texas 77002  
Tel: 713.890.5000  
Fax: 713.890.5001  
rrambo@morganlewis.com  
tdavis@morganlewis.com  
jben-ezra@morganlewis.com

Brett M. Schuman  
MORGAN, LEWIS & BOCKIUS LLP  
One Market, Spear Street Tower  
San Francisco, California 94105-1126  
Tel: 415.442.1000  
Fax: 415.442.1001  
bschuman@morganlewis.com

*Attorneys for Defendant Cequel  
Communications, LLC d/b/a SuddenLink  
Communications*

By: /s/ Bradford P. Lyerla  
Bradford P. Lyerla (IL #3127392)  
Reginald J. Hill (IL #6225173)  
JENNER & BLOCK LLP  
353 North Clark Street  
Chicago, Illinois 60654-3456  
Tel: 312.222.9350  
Fax: 312.527.0484  
blyerla@jenner.com  
rhill@jenner.com

*Attorneys for Defendant Charter  
Communications, Inc.*

By: /s/ Galyn Gafford  
Edwin R. DeYoung (Texas Bar No. 05673000)  
Roger Brian Cowie (Texas Bar No. 00783886)  
M. Scott Fuller (Texas Bar No. 24036607)  
Galyn Gafford (Texas Bar No. 24040938)  
LOCKE LORD LLP  
2200 Ross Avenue, Suite 2200  
Dallas, Texas 75201-6776  
Tel.: 214.740.8000  
Fax: 214.740.8800  
edeyoung@lockelord.com

*Attorney for Defendants Citigroup Inc. and  
Citibank, N.A.*

By: /s/ Jordan A. Sigale  
Jordan A. Sigale (ARDC No. 6210047)  
LOEB & LOEB LLP  
321 N. Clark Street, Suite 2300

Chicago, IL 60654  
Tel: 312.464.3109  
Fax: 312.276.8375  
jsigale@loeb.com

*Attorneys for Defendant CMI Marketing, Inc.*

By: /s/ David J. Silbert  
David J. Silbert  
(California State Bar No. 173128)  
Matthias Kamber  
(California State Bar No. 232147)  
Melissa J. Miksch  
(California State Bar No. 249805)  
John Bostic  
(California State Bar No. 264367)  
KEKER & VAN NEST LLP  
633 Battery Street  
San Francisco, CA 94111  
Tel: 415.391.5400  
Fax: 415.397.7188  
dsilbert@kvn.com  
mmiksch@kvn.com  
mkamber@kvn.com  
jbstic@kvn.com

*Attorneys for Defendant Comcast Cable  
Communication LLC*

By: /s/ M. Dru Montgomery  
J. Thad Heartfield  
(Texas Bar No. 09346800)  
M. Dru Montgomery  
(Texas Bar No. 24010800)  
THE HEARTFIELD LAW FIRM  
2195 Dowlen Road  
Beaumont, TX 77706  
Tel: 409.866.3318  
Fax: 409.866.5789  
thad@jth-law.com  
dru@jth-law.com

*Attorneys for Defendant Conn's, Inc. and Conn  
Appliances, Inc.*

By: /s/ Kimberly A. Warshawsky

Jerry Fellows  
Kimberly A. Warshawsky  
GREENBERG TRAURIG, LLP  
2375 East Camelback Road, Suite 700  
Phoenix, Arizona 85016  
Tel: 602.445.8000  
Fax: 602.445.8100  
Fellowsj@gtlaw.com  
warshawskyk@gtlaw.com

Scott J. Bornstein  
GREENBERG TRAURIG, LLP  
MetLife Building  
200 Park Avenue  
New York, NY 10166  
Tel: 212.801.9200  
Fax: 212.801.6400  
bornsteins@gtlaw.com

James J. Lukas, Jr.  
GREENBERG TRAURIG, LLP  
77 West Wacker Drive, Suite 3100  
Chicago, Illinois 60601  
Tel: 312.456.8400  
Fax: 312.456.8435  
bornsteins@gtlaw.com

*Attorneys for Defendant Cupid PLC*

By: /s/ Scott D. Sherwin  
Jason C. White  
Scott D. Sherwin  
MORGAN, LEWIS & BOCKIUS LLP  
77 West Wacker Drive  
Chicago, IL 60601-5094  
Tel: 312.324.1000  
Fax: 312.324.1001  
jwhite@morganlewis.com  
ssherwin@morganlewis.com

*Attorneys for Defendant Discover Financial Services, Inc.*

By: /s/ Patrick S. Park  
John M. Guaragna (Bar No. 24043308)  
DLA PIPER LLP (US)

401 Congress Avenue, Suite 2500  
Austin, TX 78701-3799  
Tel: 512.457.7000  
Fax: 512.457.7001  
john.guaragna@dlapiper.com

Richard de Bodo  
Andrew V. Devkar  
Patrick S. Park  
DLA Piper LLP (US) - LA  
2000 Avenue of the Stars  
Ste 400 North Tower  
Los Angeles, CA 90067-4704  
Tel: (310) 595-3000  
Fax: (310) 595-3300  
richard.debodo@dlapiper.com  
andrew.devkar@dlapiper.com  
patrick.park@dlapiper.com

*Attorneys for Defendants E\*Trade Financial  
Corporation and E\*Trade Bank*

By: /s/ Wasif Qureshi  
Neil J. McNabney (Texas Bar No. 24002583)  
Jane J. Du (Texas Bar No. 24076355)  
FISH & RICHARDSON P.C.  
1717 Main Street, Suite 5000  
Dallas, TX 75201  
Tel: 214.747.5070  
Fax: 214.747.2091  
mcnabney@fr.com  
jjdu@fr.com

Wasif Qureshi (Texas Bar No. 24048155)  
FISH & RICHARDSON P.C.  
1221 McKinney Street, Suite 2800  
Houston, TX 77010  
Tel: 713.654.5300  
qureshi@fr.com

*Attorneys for Defendant eHarmony, Inc.*

By: /s/ Benjamin F. Sidbury  
Benjamin F. Sidbury  
BRYAN CAVE LLP  
One Wells Fargo Center



301 South College Street, Suite 3400  
Charlotte, NC 28202  
Tel: 704.749.8939  
Fax: 704.749.9339  
benjamin.sidbury@bryancave.com

Joseph J. Richetti  
BRYAN CAVE LLP  
1290 Avenue of the Americas  
New York, New York 10104  
Tel: 212.541.1092  
Fax: 212.541.4630  
joe.richetti@bryancave.com

Brandy R. McMillion  
BRYAN CAVE LLP  
161 N. Clark Street, Suite 4300  
Chicago, IL 60601  
Tel: 312.602.5141  
Fax: 312.602.5050  
brandy.mcmillion@bryancave.com

*Attorneys for Defendant Etsy, Inc.*

By: /s/ Heidi L. Keefe  
Heidi L. Keefe  
Mark R. Weinstein  
Lam K. Nguyen  
COOLEY LLP  
Five Palo Alto Square  
3000 El Camino Real  
Palo Alto, CA 94306  
Tel: 650.843.5000  
Fax: 650.849.7400  
hkeefe@cooley.com  
mweinstein@cooley.com  
lnguyen@cooley.com

Michael G Rhodes  
COOLEY LLP  
101 California Street, 5<sup>th</sup> floor  
San Francisco, CA 94111  
Tel: 415.693.2181  
rhodesmg@cooley.com

*Attorneys for Defendant Facebook, Inc.*

By: /s/ John A. Yates

John H. Barr, Jr. (Texas Bar No. 00783605)  
Attorney-in-Charge  
711 Louisiana, Suite 2300  
Houston, Texas 77002  
Tel: 713.223.2300  
Fax: 800.404.3970  
john.barr@bgllp.com

John A. Yates (Texas Bar No. 24056569)  
BRACEWELL & GIULIANI LLP  
711 Louisiana, Suite 2300  
Houston, TX 77002  
Tel: 713.223.2300  
Fax: 800.404.3790  
jay.yates@bgllp.com

Christopher Schenck (Washington Bar No. 37997)  
BRACEWELL & GIULIANI LLP  
701 Fifth Avenue, Suite 6200  
Seattle, Washington 98104  
Tel: 206.204.6200  
Fax: 800.404.3970  
chris.schenck@bgllp.com

Benjamin L. Bernell (Texas Bar No. 24059451)  
BRACEWELL & GIULIANI LLP  
111 Congress Ave., Suite 2300  
Austin, TX 78701  
Tel: 512.472.7800  
Fax: 800.494.3970  
ben.bernell@bgllp.com

*Attorneys for Defendant Google Inc.*

By: /s/ Thomas L. Duston

Thomas L. Duston  
Kevin D. Hogg  
Scott A. Sanderson  
MARSHALL, GERSTEIN & BORUN LLP  
233 South Wacker Drive  
6300 Willis Tower  
Chicago, IL 60606-6357

Tel: 312.474.6300  
tduston@marshallip.com  
khogg@marshallip.com  
ssanderson@marshallip.com

*Counsel for Defendant Groupon, Inc.*

By: /s/ Steven J. Reynolds  
Steven J. Reynolds  
DLA PIPER LLP (US)  
203 N. LaSalle Street, Suite 1900  
Chicago, IL 60601-1293  
Tel: 312.368.4000  
Fax: 312.368.7323  
steven.reynolds@dlapiper.com

John M. Guaragna (Bar No. 24043308)  
DLA PIPER LLP (US)  
401 Congress Avenue, Suite 2500  
Austin, TX 78701-3799  
Tel: 512.457.7000  
Fax: 512.457.7001  
john.guaragna@dlapiper.com

Patrick Park  
DLA Piper LLP (US)  
2000 Avenue of the Stars, Suite 400  
North Tower  
Los Angeles, CA 90067-6023  
Tel: 310.595.3000  
Fax: 310.595.3300  
patrick.park@dlapiper.com

*Attorneys for Defendant HomeAway, Inc.*

By: /s/ Galyn Gafford  
Galyn Gafford  
Michael Scott Fuller  
Roger B. Cowie  
LOCKE LORD BISSELL & LIDDELL LLP  
2200 Ross Avenue, Suite 2200  
Dallas, TX 75201-6776  
Tel: 214.740.8614  
Fax: 214.740.8800  
ggafford@lockelord.com  
sfuller@lockelord.com

rcowie@lockelord.com

Gregory Thomas Casamento  
LOCKE LORD LLP (NYC)  
3 World Financial Center, 20th Floor  
New York, NY 10001  
Tel: 212.415.8600  
Fax: 212.303.2754  
gcasamento@lockelord.com

*Attorneys for Defendants HSBC North America  
Holdings Inc. and HSBC USA Inc./HSBC Bank  
USA, National Association*

By: /s/ Matthew Braunel  
Matthew Braunel  
David Jinkins  
THOMPSON COBURN LLP  
One US Bank Plaza  
St. Louis, Missouri 63101  
Tel: 314.552.6000  
Fax: 314.552.7000  
mbraunel@thompsoncoburn.com

*Attorneys for Defendant Laclede Gas*

By: /s/ Wasif Qureshi  
Neil J. McNabney (Texas Bar No. 24002583)  
Jane J. Du (Texas Bar No. 24076355)  
FISH & RICHARDSON P.C.  
1717 Main Street, Suite 5000  
Dallas, TX 75201  
Tel: 214.747.5070  
Fax: 214.747.2091  
mcnabney@fr.com  
jjdu@fr.com

Wasif Qureshi (Texas Bar No. 24048155)  
FISH & RICHARDSON P.C.  
1221 McKinney Street, Suite 2800  
Houston, TX 77010  
Tel: 713.654.5300  
qureshi@fr.com

*Attorneys for Defendant LinkedIn Corporation*

By: /s/ Wasif Qureshi

Neil J. McNabnay (Texas Bar No. 24002583)

Jane J. Du (Texas Bar No. 24076355)

FISH & RICHARDSON P.C.

1717 Main Street, Suite 5000

Dallas, TX 75201

Tel: 214.747.5070

Fax: 214.747.2091

mcnabnay@fr.com

jjdu@fr.com

Wasif Qureshi (Texas Bar No. 24048155)

FISH & RICHARDSON P.C.

1221 McKinney Street, Suite 2800

Houston, TX 77010

Tel: 713-654-5300

qureshi@fr.com

*Attorneys for Defendant Match.com, LLC*

By: /s/ Tigran Vardanian

Peter J. Armenio

Tigran Vardanian

QUINN EMANUEL URQUHART &

SULLIVAN, LLP

51 Madison Avenue, 22nd Floor

New York, NY 10010

Tel: 212.849.7070

peterarmenio@quinnemanuel.com

tigranvardanian@quinnemanuel.com

David Aaron Nelson

Thomas W. Cushing

QUINN EMANUEL URQUHART &

SULLIVAN, LLP

500 West Madison, Suite 2450

Chicago, IL 60661

Tel: 312.704.7400

Fax: 312.705.7401

davenelson@quinnemanuel.com

thomascushing@quinnemanuel.com

*Attorneys for Defendants Morgan Stanley,*

*Morgan Stanley & Co. LLC and Morgan*

*Stanley Smith Barney LLC*

Eric Hugh Findlay  
Michael D. Findlay  
6760 Old Jacksonville Hwy, Suite 101  
Tyler, TX 75703  
Tel: 903.534.1100  
Fax: 903.534.1137  
efindlay@findlaycraft.com  
mfindlay@findlaycraft.com

*Attorneys for Defendant Multiply, Inc*

By: /s/ Kimberly A. Warshawsky  
Jerry Fellows  
Kimberly A. Warshawsky  
GREENBERG TRAURIG, LLP  
2375 East Camelback Road, Suite 700  
Phoenix, Arizona 85016  
Tel: 602.445.8000  
Fax: 602.445.8100  
Fellowsj@gtlaw.com  
warshawskyk@gtlaw.com

*Of Counsel:*  
Scott J. Bornstein  
GREENBERG TRAURIG, LLP  
MetLife Building  
200 Park Avenue  
New York, NY 10166  
Tel: 212.801.9200  
Fax: 212.801.6400  
bornsteins@gtlaw.com

James J. Lukas, Jr.  
GREENBERG TRAURIG, LLP  
77 West Wacker Drive, Suite 3100  
Chicago, Illinois 60601  
Tel: 312.456.8400  
Fax: 312.456.8435  
bornsteins@gtlaw.com

*Attorneys for Defendant Northern Illinois Gas  
Company*

By: /s/ Kal K. Shah  
Kal K. Shah

THOMPSON COBURN LLP  
55 East Monroe Street  
Chicago, IL 60603  
Tel: 312.580.2338  
KShah@thompsoncoburn.com

*Attorneys for Defendant Orbitz, LLC*

By: /s/ John A. Leja  
John A. Leja  
POLSINELLI SHUGHART PC  
161 N. Clark St., Suite 4200  
Chicago, Illinois 60601  
Tel: 312.873.3600  
Jleja@polsinelli.com

*Attorneys for Defendant PlentyOfFish Media, Inc.*

By: /s/ Phillip E. Morton  
Jonathan G. Graves (VA Bar #46136)  
Phillip E. Morton (VA Bar #71299)  
COOLEY LLP  
One Freedom Square  
Reston Town Center  
11951 Freedom Drive  
Reston, VA 20190-5656  
Tel: 703.456.8000  
Fax: 703.456.8100  
jgraves@cooley.com  
pmorton@cooley.com

*Attorneys for Defendants Qwest Corporation  
and Century Tel Broadband Services, LLC*

By: /s/ Eric S. Walters  
Eric S. Walters  
DAVIS WRIGHT TREMAINE LLP  
505 Montgomery Street, Suite 800  
San Francisco, CA 94111  
Tel: 415.276.4801  
Fax: 415.276.6599  
ericwalters@dwt.com

Benjamin J. Byer  
DAVIS WRIGHT TREMAINE, LLP

1201 Third Avenue, Suite 2200  
Seattle, WA 98101  
Tel: 206.622.3150  
Fax: 206.757.7105  
benbyer@dwt.com

*Attorneys for Defendant Radio One, Inc.*

By: /s/ Jason M. Schwent  
Jason M. Schwent  
Thomas E. Douglass  
THOMPSON COBURN, LLP  
One US Bank Plaza  
St. Louis, MO 63101  
Tel: 314.552.6291  
Fax: 314.552.7291  
jschwent@thomascoburn.com  
tdouglass@thompsoncoburn.com

*Attorneys for Defendant Scottrade, Inc.*

By: /s/ Max Ciccarelli  
Max Ciccarelli (General Bar No. 00787242)  
Sarah M. Paxson (General Bar No. 24032826)  
THOMPSON & KNIGHT LLP  
1722 Routh Street, Suite 1500  
Dallas, Texas 75201-2533  
Tel: 214.969.1700  
Max.Ciccarelli@tklaw.com  
Sarah.Paxson@tklaw.com

*Attorneys for Defendant Southwest Airlines Co.*

By: /s/ John A Leja  
John A. Leja  
Polsinelli Shughart PC  
161 N. Clark St.  
Suite 4200  
Chicago, Illinois 60601  
Tel: (312) 873-3600  
Jleja@polsinelli.com

*Attorneys for Defendant Sprint Nextel Corporation*



By: /s/ Daniel L. Reisner

David S. Benyacar  
Daniel L. Reisner  
KAYE SCHOLER LLP  
425 Park Avenue  
New York, NY 10022  
Tel: (212) 836-8000  
Fax: (212) 836-8689

*Attorneys for Defendant Time Warner Cable  
Inc.*

By: /s/ Alan L. Barry

Alan L. Barry  
Jason A. Engel  
K&L GATES LLP  
70 West Madison Street, Suite 3100  
Chicago, Illinois 60602  
Tel: 312.372.1121  
Fax: 312.827.8000  
alan.barry@klgates.com  
jason.engel@klgates.com

William P. Atkins  
Christopher K. Dorsey  
PILLSBURY WINTHROP SHAW PITTMAN  
LLP  
1650 Tysons Boulevard, Suite 1400  
McLean, VA 22102  
Tel: 703.770.7900  
Fax: 703.770.7901  
william.atkins@pillsburylaw.com  
christoper.dorsey@pillsburylaw.com

*Attorneys for Defendants UBS Financial  
Services, Inc.*

By: /s/ Thomas L. Duston

Thomas L. Duston  
Paul B. Stephens  
Scott A. Sanderson  
MARSHALL, GERSTEIN & BORUN LLP  
6300 Willis Tower  
233 South Wacker Drive  
Chicago, IL 60606-6357  
Tel: 312.474.6300

tduston@marshallip.com  
pstephens@marshallip.com  
ssanderson@marshallip.com

*Attorneys for Defendant United Air Lines, Inc.*

By: /s/ Timothy J. Carroll  
Howard Cabot  
PERKINS COIE LLP  
2901 North Central Avenue, Suite 2000  
Phoenix, AZ 85012  
Tel: 602.351.8000

Timothy J. Carroll  
Steven M. Lubezny  
PERKINS COIE LLP  
131 South Dearborn Street, Suite 1700  
Chicago, IL 60603  
Tel: 312.324.8400

Dennis Cecil Hopkins  
Manny Caixeiro  
PERKINS COIE LLP  
30 Rockefeller Center, 25th Floor  
New York, NY 10112-0085  
Tel: 212.262.6900

*Attorneys for Defendants The Vanguard  
Group, Inc. and Vanguard Marketing  
Corporation*

By: /s/ Kurt Mathas  
Kurt Mathas  
WINSTON & STRAWN LLP  
35 W. Wacker Dr.  
Chicago, IL 60601  
Tel: 312.558.8329  
Fax: 312.558.5700  
kmathas@winston.com

Charles B. Molster, III  
WINSTON & STRAWN LLP  
1700 K. St., NW  
Washington, DC 20006  
Tel: (202) 282-5000  
Fax: (202) 282-5100

cmolster@winston.com

*Attorneys for Defendant Verizon Data Services  
LLC*

By: /s/ Brooks M. Beard  
Brooks M. Beard (CA Bar 181271)  
Richard S.J. Hung (CA Bar 197425)  
Danielle Coleman (CA Bar 248456)  
MORRISON & FOERSTER LLP  
425 Market Street  
San Francisco, CA 94105  
Tel: 415.268.7000  
Fax: 415.268.7522  
bbeard@mofo.com  
rhung@mofo.com  
dcoleman@mofo.com

*Attorneys for Defendants VMware, Inc., Intuit  
Inc., and Homestead Technologies Inc.*

By: /s/ Scott D. Sherwin  
Jason C. White  
Scott D. Sherwin  
MORGAN, LEWIS & BOCKIUS LLP  
77 West Wacker Drive  
Chicago, IL 60601-5094  
Tel: (312) 324-1000  
Fax: (312) 324-1001  
jwhite@morganlewis.com  
ssherwin@morganlewis.com

*Attorneys for Defendant Walgreen Co.*

By: /s/ John A. Leja  
John A. Leja  
POL SINELLI SHUGHART PC  
161 N. Clark St., Suite 4200  
Chicago, Illinois 60601  
Tel: 312.873.3600  
Jleja@polsinelli.com

*Attorneys for Defendant WeeWorld Inc.*

By: /s/ John A. Leja  
John A. Leja

POLSINELLI SHUGHART PC  
161 N. Clark St., Suite 4200  
Chicago, Illinois 60601  
Tel: 312.873.3600  
Jleja@polsinelli.com

*Attorneys for Defendant Where Are You Now,  
Ltd.*

By: /s/ Jakob Ben-Ezra  
Rick L. Rambo, Lead Attorney  
Thomas R. Davis  
Jakob Ben-Ezra  
MORGAN, LEWIS & BOCKIUS LLP  
1000 Louisiana Street, Suite 4000  
Houston, Texas 77002  
Tel: 713.890.5000  
Fax: 713.890.5001  
rrambo@morganlewis.com  
tdavis@morganlewis.com  
jben-ezra@morganlewis.com

Brett M. Schuman  
MORGAN, LEWIS & BOCKIUS LLP  
One Market, Spear Street Tower  
San Francisco, California 94105-1126  
Tel: 415.442.1000  
Fax: 415.442.1001  
bschuman@morganlewis.com

*Attorneys for Defendant Windstream  
Corporation*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 28, 2012, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Edward R. Nelson, III  
Edward R. Nelson, III